

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARTIN SHOREY,

Docket No. 23-cv-03885

Plaintiff,

-against-

SUPERB MOTORS, INC., and
ALLY FINANCIAL, INC.

Defendants.
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ANSWER OF DEFENDANT SUPERB MOTORS, INC.
WITH JURY DEMAND

NOW COMES Defendant, SUPERB MOTORS, INC., by counsel, Harry R. Thomasson, Esq., and Answers Plaintiff's First Amended Complaint as follows:

ANSWER

1. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 1.
2. Defendant admits the allegations contained in Complaint paragraph number 2.
3. Defendant admits that it is engaged in the business of selling used motor vehicles, but denies the remaining allegations contained in Complaint paragraph number 3.
4. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 4.
5. The allegations cited in Complaint paragraph number 5 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 5 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 5.

6. The allegations cited in Complaint paragraph number 6 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 6 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 6.
7. The allegations cited in Complaint paragraph number 7 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 7 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 7.
8. The allegations cited in Complaint paragraph number 8 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 8 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 8.
9. The allegations cited in Complaint paragraph number 9 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 9 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 9.
10. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 10.
11. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 11.
12. Defendant denies the allegations contained in Complaint paragraph number 12.
13. The allegations contained in Complaint paragraph number 13 reference a document that speaks for itself.

14. The allegations contained in Complaint paragraph number 14 reference a document that speaks for itself.
15. The allegations contained in Complaint paragraph number 15 reference a document that speaks for itself.
16. The allegations contained in Complaint paragraph number 16 reference a document that speaks for itself.
17. The allegations contained in Complaint paragraph number 17 reference a document that speaks for itself.
18. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 18.
19. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 19.
20. The allegations cited in Complaint paragraph number 20 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 20 call for an answer, Defendant denies the allegations contained in Complaint paragraph number 20.
21. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 21.
22. Defendant repeats, realleges, and restates each of the preceding answers as if specifically rewritten here in response to Complaint paragraph number 22.
23. The allegations cited in Complaint paragraph number 23 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph

- number 23 call for an answer, Defendant denies the allegations contained in Complaint paragraph number 23.
24. The allegations cited in Complaint paragraph number 24 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 24 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 24.
25. The allegations cited in Complaint paragraph number 25 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 25 call for an answer, Defendant denies the allegations contained in Complaint paragraph number 25.
26. The allegations cited in Complaint paragraph number 26 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 26 call for an answer, Defendant denies the allegations contained in Complaint paragraph number 26.
27. Defendant denies the allegations contained in Complaint paragraph number 27.
28. Defendant denies the allegations contained in Complaint paragraph number 28.
29. Defendant denies the allegations contained in Complaint paragraph number 29.
30. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 30.
31. Defendant repeats, realleges, and restates each of the preceding answers as if specifically rewritten here in response to Complaint paragraph number 31.
32. The allegations cited in Complaint paragraph number 32 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph

- number 32 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 32.
33. The allegations cited in Complaint paragraph number 33 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 33 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 33.
34. The allegations cited in Complaint paragraph number 34 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 34 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 34.
35. The allegations cited in Complaint paragraph number 35 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 35 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 35.
36. The allegations cited in Complaint paragraph number 36 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 36 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 36.
37. Defendant denies the allegations contained in Complaint paragraph number 37.
38. Defendant repeats, realleges, and restates each of the preceding answers as if specifically rewritten here in response to Complaint paragraph number 38.
39. The allegations cited in Complaint paragraph number 39 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph

- number 39 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 39.
40. Defendant denies the allegations contained in Complaint paragraph number 40.
41. Defendant denies the allegations contained in Complaint paragraph number 41.
42. Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 42.
43. Defendant denies the allegations contained in Complaint paragraph number 43.
44. Defendant repeats, realleges, and restates each of the preceding answers as if specifically rewritten here in response to Complaint paragraph number 44.
45. The allegations cited in Complaint paragraph number 45 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 45 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 45.
46. The allegations cited in Complaint paragraph number 46 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 46 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 46.
47. Defendant repeats, realleges, and restates each of the preceding answers as if specifically rewritten here in response to Complaint paragraph number 47.
48. The allegations cited in Complaint paragraph number 48 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 48 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 48.

49. The allegations cited in Complaint paragraph number 49 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 49 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 49.
50. The allegations cited in Complaint paragraph number 50 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 50 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 50.
51. The allegations cited in Complaint paragraph number 51 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 51 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 51.
52. The allegations cited in Complaint paragraph number 52 cite law that speaks for itself and requires no answer; to the extent that the allegations cited in Complaint paragraph number 52 call for an answer, Defendant denies knowledge or information sufficient to answer the allegations contained in Complaint paragraph number 52.

WHEREFORE, Defendant demands that this Court deny each of the Plaintiff's Causes of Action, demands, and prayers for relief; dismiss Plaintiff's lawsuit in its entirety; and award Defendant costs and attorney fees and such other relief as this Court deems necessary and just.

AFFIRMATIVE DEFENSES

1. All or part of Plaintiff's claims are barred by the doctrines of laches, equitable estoppel, and unclean hands.

2. Defendant acted in good faith and with reasonable care to ensure its actions were in compliance with all applicable laws and regulations.
3. To the extent Plaintiff has sustained damages as alleged in the Complaint, such damages are misstated.
4. Failure to state claims upon which relief may be granted in whole or in part.
5. The Complaint is barred, in whole or in part, because Defendant, in good faith, acted in conformity with and in reliance upon written administrative regulations, interpretations and opinion letters with regard to some or all of the acts or omissions alleged in the Complaint
6. The Complaint is barred, in whole or in part, to the extent that Plaintiff is estopped by his own conduct from claiming any damages or relief against Defendant.
7. Failure to join necessary and/or indispensable parties, if any.
8. Recovery is barred to any extent that the Plaintiff has failed to mitigate their purported damages.
9. This action is barred and/or recovery is barred to any extent that Plaintiff failed to take advantage of existing and available remedial opportunities, and/or otherwise failed to avoid alleged harm.
10. One or more of the allegations against the Defendant is/are time barred under applicable statutory time limitations.
11. Plaintiff does not meet the jurisdictional requirements for being in this Court.
12. Plaintiff fails to meet one or more prerequisites to each of their causes of action.
13. Defendant has engaged attorneys to represent it in defense of Plaintiff's frivolous, unfounded, and unreasonable action and Defendant will thus be entitled to an award

of reasonable attorney fees and costs pursuant to applicable statutory provisions upon judgment in its favor.

14. Plaintiff's claims are specious and without merit in law or fact.

15. Plaintiff's claims are barred in whole or in part based on the doctrine of accord and satisfaction.

16. Defendant is entitled to an offset for any monies paid to Plaintiff by any co-Defendant herein to settle that co-Defendant's claims brought by Plaintiff against that co-Defendant.

17. Defendant is entitled to a proportional offset for the percentage of responsibility for other parties, whether named or unnamed.

DEFENDANT DEMANDS TRIAL BY JURY ON EACH COUNT OF PLAINTIFF'S

COMPLAINT SO TRIABLE.

Dated: Lindenhurst, NY
July 25, 2023

Defendant, by counsel,

A handwritten signature in black ink, appearing to be 'Harry R. Thomasson', with a long horizontal line extending to the right.

Harry R. Thomasson, Esq.
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